

Senate Bill 372

By: Senators Rogers of the 21st, Hill of the 32nd, Wiles of the 37th, Seabaugh of the 28th,
Pearson of the 51st and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,
2 so as to change registration requirements and areas where certain offenders can reside as it
3 affects sexual offenders; to reorganize and change provisions related to the State Sexual
4 Offender Registry; to change and add certain definitions; to change provisions relating to
5 registration requirements for sexual offenders; to provide for an annual registration fee; to
6 provide that sexual offenders register prior to release from prison; to require each sheriff to
7 maintain and update a list of all sexual offenders residing in the county; to provide for duties
8 and responsibilities for sheriffs, the Department of Corrections, the Georgia Bureau of
9 Investigation, and sexual offenders; to require registered sexual offenders to verify required
10 registration information with the sheriff whenever any changes occur to certain information
11 and verify information at least annually within 48 hours of the sexual offender's birthday;
12 to increase the duration for registration requirement; to require the sheriff to notify certain
13 people and entities of the presence of sexual offenders in their community; to increase
14 punishment for failure to comply with registration requirements; to change the appointing
15 authority for the Sexual Offender Registration Review Board; to require the Sexual Offender
16 Registration Review Board to classify sexual offenders; to require sexually dangerous
17 predators to wear an electronic monitoring device for the balance of his or her life and to pay
18 for such device; to require sexually dangerous predators to update required registration
19 information twice yearly; to provide for employment restrictions for sexual offenders; to
20 correct cross-references; to provide for other related matters; to provide for an effective date
21 and applicability; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by designating Code Sections 42-1-1 through 42-1-11 as Article 1 of Chapter 1, striking in their entirety Code Sections 42-1-12 and 42-1-13, and inserting in their place a new Article 2 to read as follows:

"ARTICLE 2

42-1-12.

(a) As used in this article, the term:

(1) 'Address' means the street or route address of the sexual offender's residence. For purposes of this Code section, the term does not mean a post office box, and homeless does not constitute an address.

(2) 'Appropriate official' means:

(A) With respect to a sexual offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Division of Probation of the Department of Corrections;

(B) With respect to a sexual offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee;

(C) With respect to a sexual offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; and

(D) With respect to a sexual offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.

(3) 'Area where minors congregate' shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, bus stops, and all other places established for the public to congregate and wait for public transportation.

(4) 'Assessment criteria' means the tests that the board members use to determine the likelihood that a sexual offender will commit another criminal offense against a victim who is a minor or commit a dangerous sexual offense.

(5) 'Board' means the Sexual Offender Registration Review Board.

(6) 'Child care facility' means all public and private pre-kindergarten facilities, day-care centers, and preschool facilities.

1 (7) 'Church' means a place of public religious worship.

2 (8) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding
3 of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is
4 discharged without adjudication of guilt and who is not considered to have a criminal
5 conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall
6 be subject to the registration requirements of this Code section for the period of time prior
7 to the defendant's discharge after completion of his or her sentence or upon the defendant
8 being adjudicated guilty. Unless otherwise required by federal law, a defendant who is
9 discharged without adjudication of guilt and who is not considered to have a criminal
10 conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall
11 not be subject to the registration requirements of this Code section upon the defendant's
12 discharge.

13 (9)(A) 'Criminal offense against a victim who is a minor' with respect to convictions
14 occurring on or before June 30, 2001, means any criminal offense under Title 16 or any
15 offense under federal law or the laws of another state or territory of the United States
16 which consists of:

- 17 (i) Kidnapping of a minor, except by a parent;
- 18 (ii) False imprisonment of a minor, except by a parent;
- 19 (iii) Criminal sexual conduct toward a minor;
- 20 (iv) Solicitation of a minor to engage in sexual conduct;
- 21 (v) Use of a minor in a sexual performance;
- 22 (vi) Solicitation of a minor to practice prostitution; or
- 23 (vii) Any conviction resulting from an underlying sexual offense against a victim
24 who is a minor.

25 (B) 'Criminal offense against a victim who is a minor' with respect to convictions
26 occurring after June 30, 2001, means any criminal offense under Title 16 or any offense
27 under federal law or the laws of another state or territory of the United States which
28 consists of:

- 29 (i) Kidnapping of a minor, except by a parent;
- 30 (ii) False imprisonment of a minor, except by a parent;
- 31 (iii) Criminal sexual conduct toward a minor;
- 32 (iv) Solicitation of a minor to engage in sexual conduct;
- 33 (v) Use of a minor in a sexual performance;
- 34 (vi) Solicitation of a minor to practice prostitution;
- 35 (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual
36 medium depicting such conduct;

- 1 (viii) Creating, publishing, selling, distributing, or possessing any material depicting
2 a minor or a portion of a minor's body engaged in sexually explicit conduct;
3 (ix) Transmitting, making, selling, buying, or disseminating by means of a computer
4 any descriptive or identifying information regarding a child for the purpose of
5 offering or soliciting sexual conduct of or with a child or the visual depicting of such
6 conduct;
7 (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors
8 engaged in sexually explicit conduct; or
9 (xi) Any conduct which, by its nature, is a sexual offense against a minor.

10 (10)(A) 'Dangerous sexual offense' with respect to convictions occurring after June 30,
11 2006, means any criminal offense under Title 16 as specified in this paragraph or any
12 offense under federal law or the laws of another state or territory of the United States
13 which consists of the same or similar elements of the following offenses:

- 14 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-2;
15 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
16 is less than 14 years of age, except by a parent;
17 (iii) False imprisonment in violation of Code Section 16-5-41 which involves a
18 victim who is less than 14 years of age, except by a parent;
19 (iv) Rape in violation of Code Section 16-6-1;
20 (v) Sodomy or aggravated sodomy in violation of Code Section 16-6-2;
21 (vi) Statutory rape in violation of Code Section 16-6-3, if the individual convicted of
22 the offense is 21 years of age or older;
23 (vii) Child molestation or aggravated child molestation in violation of Code Section
24 16-6-4;
25 (viii) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
26 (ix) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
27 (x) Incest in violation of Code Section 16-6-22;
28 (xi) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
29 (xii) Aggravated sexual battery in violation of Code Section 16-6-23;
30 (xiii) Sexual exploitation of children in violation of Code Section 16-12-100;
31 (xiv) Electronically furnishing obscene material to minors in violation of Code
32 Section 16-12-100.1;
33 (xv) Computer pornography and child exploitation prevention in violation of Code
34 Section 16-12-100.2;
35 (xvi) Obscene telephone contact in violation of Code Section 16-12-100.3; or

(xvii) Any conduct which, by its nature, is a sexual offense against a minor or an attempt to commit a sexual offense against a minor.

(B) For purposes of this paragraph, conduct which is prosecuted in juvenile court shall not be considered a dangerous sexual offense.

(11) 'Institution of higher education' means a private or public community college, state university, state college, or independent postsecondary institution.

(12) 'Level I risk assessment classification' means the sexual offender is a low sex offense risk and low general recidivism risk.

(13) 'Level II risk assessment classification' means the sexual offender is an intermediate sex offense risk and intermediate general recidivism risk and includes all sexual offenders who do not meet the criteria for classification either as a sexually dangerous predator or for Level I risk assessment.

(14) 'Minor' means any individual under the age of 18 years and any individual that the sexual offender believed at the time of the offense was under the age of 18 years if such individual was the victim of an offense.

(15) 'Required registration information' means:

(A) Name; social security number; age; race; sex; date of birth; height; weight; hair color, eye color, fingerprints; and photograph;

(B) Address of any permanent residence and address of any current temporary residence, within the state or out of state, and, if applicable in addition to the address, a rural route address and a post office box;

(C) If the place of residence is a motor vehicle, trailer, mobile home, or manufactured home, provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home;

(D) If the place of residence is a vessel, live-aboard vessel, or houseboat, provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat;

(E) Date of employment, place of any employment, and address of employer;

(F) Place of vocation and address of the place of vocation;

(G) Vehicle make, model, color, and license tag number;

(H) If enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the name, address, and county of each institution, including each campus attended, and enrollment or employment status; and

(I) The name of the crime or crimes for which the sexual offender is registering and the date released from prison or placed on probation, parole, or supervised release.

(16) 'Risk assessment classification' means the notification level into which a sexual offender is placed based on the board's assessment.

(17) 'School' means all public and private kindergarten, elementary, and secondary schools.

(18) 'Sexual offender' means any individual:

(A) Who has been convicted of a criminal offense against a victim who is a minor or any dangerous sexual offense; or

(B) Who has been convicted under the laws of another state or territory, under the laws of the United States, under the Uniform Code of Military Justice, or in a tribal court of a criminal offense against a victim who is a minor or a dangerous sexual offense.

(19) 'Sexually dangerous predator' means a sexual offender:

(A) Who was designated as a sexually violent offender between July 1, 1996, and June 30, 2006; or

(B) Who has been convicted on or after July 1, 2006, of a dangerous sexual offense; and

who is determined by the Sexual Offender Registration Review Board to be at risk of perpetrating any future dangerous sexual offense.

(20) 'Vocation' means any full-time, part-time, or volunteer employment with or without compensation exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year.

(b) Before a sexual offender who is required to register under this Code section is released from prison or placed on parole, supervised release, or probation, the appropriate official shall:

(1) Inform the sexual offender of the obligation to register, the amount of the registration fee, and how to maintain registration;

(2) Obtain the information necessary for the required registration information;

(3) Inform the sexual offender that, if the sexual offender changes any of the required registration information, the sexual offender shall give the new information to the sheriff of the county with whom the sexual offender is registered within 48 hours of the change of information; if the information is the sexual offender's new residence address, the sexual offender shall give the information to the sheriff of the county with whom the sexual offender last registered not sooner than 48 hours before moving and to the sheriff of the county to which the sexual offender is moving not later than 48 hours after the change of information;

1 (4) Inform the sexual offender that he or she shall also register in any state where he or
2 she is employed, carries on a vocation, or is a student;

3 (5) Inform the sexual offender that, if he or she changes residence to another state, the
4 sexual offender shall register the new address with the sheriff of the county with whom
5 the sexual offender last registered, and that the sexual offender shall also register with a
6 designated law enforcement agency in the new state not later than 48 hours after
7 establishing residence in the new state;

8 (6) Obtain current fingerprints and a photograph of the sexual offender;

9 (7) Require the sexual offender to read and sign a form stating that the obligations of the
10 sexual offender have been explained;

11 (8) Obtain and forward any information obtained from the clerk of court pursuant to
12 Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender
13 will reside; and

14 (9) If required by Code Section 42-1-14, place any required electronic monitoring device
15 on the sexually dangerous predator and explain its operation and cost.

16 (c) The Department of Corrections shall:

17 (1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the
18 obligations of the sexual offender have been explained;

19 (2) Forward any required registration information to the Georgia Bureau of Investigation;

20 (3) Forward the sexual offender's fingerprints and photograph to the sheriff's office of
21 the county where the sexual offender is going to reside;

22 (4) Inform the board and the prosecuting attorney for the jurisdiction in which a sexual
23 offender was convicted of the impending release of a sexual offender at least eight
24 months prior to such release so as to facilitate compliance with Code Section 42-1-14;
25 and

26 (5) Keep all records of sexual offenders in a secure facility until official proof of death
27 of a registered sexual offender and thereafter the records shall be destroyed in accordance
28 with Code Sections 15-1-10, 15-6-62, and 15-6-62.1.

29 (d) No sexual offender shall be released from prison or placed on parole, supervised
30 release, or probation until:

31 (1) The appropriate official has provided the Georgia Bureau of Investigation and the
32 sheriff's office in the county where the sexual offender will be residing with the sexual
33 offender's required registration information and risk assessment classification level; and

34 (2) The sexual offender's name has been added to the list of sexual offenders maintained
35 by the Georgia Bureau of Investigation and the sheriff's office as required by this Code
36 section.

1 (e) Registration pursuant to this Code section shall be required by any individual who:

2 (1) Is convicted on or after July 1, 1996, of a criminal offense against a victim who is a
3 minor;

4 (2) Is convicted on or after July 1, 2006, of a dangerous sexual offense;

5 (3) Has previously been convicted of a criminal offense against a minor and may be
6 released from prison or placed on parole, supervised release, or probation on or after July
7 1, 1996;

8 (4) Has previously been convicted of a sexually violent offense and may be released from
9 prison or placed on parole, supervised release, or probation;

10 (5) Is a resident of Georgia who intends to reside in this state and who is convicted under
11 the laws of another state or the United States, under the Uniform Code of Military Justice,
12 or in a tribal court of a sexually violent offense, a criminal offense against a victim who
13 is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 2006;

14 (6) Is a nonresident sexual offender who changes residence from another state or territory
15 of the United States to Georgia who is required to register as a sexual offender under
16 federal law, military law, tribal law, or the laws of another state or territory, regardless
17 of when the conviction occurred;

18 (7) Is a nonresident sexual offender who enters this state for the purpose of employment
19 for a period exceeding 14 consecutive days or for an aggregate period of time exceeding
20 30 days during any calendar year regardless of whether such sexual offender is required
21 to register under federal law, military law, tribal law, or the laws of another state or
22 territory; or

23 (8) Is a nonresident sexual offender who enters this state for the purpose of attending
24 school as a full-time or part-time student regardless of whether such sexual offender is
25 required to register under federal law, military law, tribal law, or the laws of another state
26 or territory.

27 (f) Any sexual offender required to register under this Code section shall:

28 (1) Provide the required registration information to the appropriate official before being
29 released from prison or placed on parole, supervised release, or probation;

30 (2) Register with the sheriff of the county in which the sexual offender resides within 48
31 hours after the sexual offender's release from prison or placement on parole, supervised
32 release, probation, or entry into this state;

33 (3) Maintain the required registration information with the sheriff of the county in which
34 the sexual offender resides;

1 (4) Renew the required registration information with the sheriff of the county in which
2 the sexual offender resides by reporting to the sheriff within 48 hours of such offender's
3 birthday each year to be photographed and fingerprinted;

4 (5) Update the required registration information with the sheriff of the county in which
5 the sexual offender resides within 48 hours of any change to the required registration
6 information; if the information is the sexual offender's new residence address, the sexual
7 offender shall give the information to the sheriff of the county with whom the sexual
8 offender last registered no sooner than 48 hours before any change of residence address
9 and to the sheriff of the county to which the sexual offender is moving;

10 (6) If convicted of a dangerous sexual offense on or after July 1, 2006, pay to the sheriff
11 of the county where the sexual offender resides an annual registration fee of \$250.00
12 upon each anniversary of such registration; and

13 (7) Continue to comply with the registration requirements of this Code section for the
14 entire life of the sexual offender, including ensuing periods of incarceration.

15 (g)(1) The appropriate official or sheriff shall, within 48 hours after receipt of the
16 required registration information, forward such information to the Georgia Bureau of
17 Investigation. Once the data is entered into the Criminal Justice Information System by
18 the appropriate official or sheriff, the Georgia Crime Information Center shall notify the
19 sheriff of the sexual offender's county of residence, either permanent or temporary, the
20 sheriff of the county of employment, and the sheriff of the county where the sexual
21 offender attends an institution of higher education within 24 hours of entering the data
22 or any change to the data.

23 (2) The Georgia Bureau of Investigation shall:

24 (A) Transmit all information, including the conviction data and fingerprints, to the
25 Federal Bureau of Investigation within 24 hours of entering the data;

26 (B) Establish operating policies and procedures concerning record ownership, quality,
27 verification, modification, and cancellation; and

28 (C) Perform mail out and verification duties as follows:

29 (i) Send each month Criminal Justice Information System network messages to
30 sheriffs listing sexual offenders due for verification;

31 (ii) Create a photo image file from original entries and provide such entries to sheriffs
32 to assist in sexual offender identification and verification;

33 (iii) Mail a nonforwardable verification form to the last reported address of the sexual
34 offender prior to the sexual offender's birthday;

35 (iv) If the sexual offender changes residence to another state, notify the law
36 enforcement agency with which the sexual offender shall register in the new state; and

1 (v) Maintain records required under this Code section.

2 (h) The sheriff's office in each county shall:

3 (1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators
4 residing in each county. Such list shall include the sexual offender's name; age; physical
5 description; address; crime of conviction, including conviction date and the jurisdiction
6 of the conviction; photograph; and the risk assessment classification level provided by
7 the board, and an explanation of how the board classifies sexual offenders and sexually
8 dangerous predators;

9 (2) Electronically submit and update all information provided by the sexual offender
10 within two working days to the Georgia Bureau of Investigation in a manner prescribed
11 by the Georgia Bureau of Investigation;

12 (3) Maintain and post a list of every sexual offender residing in each county:

13 (A) In the sheriff's office;

14 (B) In any county administrative building;

15 (C) In the main administrative building for any municipal corporation;

16 (D) In the office of the clerk of the superior court so that such list is available to the
17 public; and

18 (E) On a website maintained by the sheriff or the county for the posting of general
19 information;

20 (4) Update the public notices required by paragraph (3) of this Code section within two
21 working days;

22 (5) Inform the public of the presence of sexual offenders in each community;

23 (6) Update the list of sexual offenders residing in the county upon receipt of new
24 information affecting the residence address of a sexual offender or upon the registration
25 of a sexual offender moving into the county by virtue of release from prison, relocation
26 from another county, conviction in another state, federal court, military tribunal, or tribal
27 court. Such list, and any additions to such list, shall be delivered immediately to all
28 schools or institutions of higher education located in the county;

29 (7) Within 48 hours of the receipt of changed required registration information, notify
30 the Georgia Bureau of Investigation through the Criminal Justice Information System of
31 each change of information;

32 (8) Retain the verification form stating that the sexual offender still resides at the address
33 last reported;

34 (9) Enforce the criminal provisions of this Code section. The sheriff may request the
35 assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code
36 section;

1 (10) Cooperate and communicate with other sheriffs' offices in this state and in the
2 United States to maintain current data on the location of sexual offenders;

3 (11) Determine the appropriate time of day for reporting by sexual offenders, which shall
4 be consistent with the reporting requirements of this Code section;

5 (12) If required by Code Section 42-1-14, place any electronic monitoring device on the
6 sexually dangerous predator and explain its operation and cost;

7 (13) Provide current information on names and addresses of all registered sexual
8 offenders to campus police with jurisdiction for the campus of an institution of higher
9 education if the campus is within the sheriff's jurisdiction; and

10 (14) Collect the annual \$250.00 registration fee from the sexual offender and transmit
11 such fees to the state for deposit into the General Fund.

12 (i)(1) The sheriff of the county where the sexual offender resides or last registered shall
13 be the primary law enforcement official charged with communicating the whereabouts
14 of the sexual offender and any changes in required registration information to the
15 sheriff's office of the county or counties where the sexual offender is employed,
16 volunteers, attends an institution of higher education, or moves.

17 (2) The sheriff's office may post the list of sexual offenders in any public building in
18 addition to those locations enumerated in subsection (h) of this Code section.

19 (j) The Georgia Crime Information Center shall create the Criminal Justice Information
20 System network transaction screens by which appropriate officials shall enter original data
21 required by this Code section. Screens shall also be created for sheriffs' offices for the
22 entry of record confirmation data; employment; changes of residence, institutions of higher
23 education, or employment; or other pertinent data to assist in sexual offender identification.

24 (k)(1) On at least an annual basis, the Department of Education shall obtain from the
25 Georgia Bureau of Investigation a complete list of the names and addresses of all
26 registered sexual offenders and shall send such list, accompanied by a hold harmless
27 provision, to each school in this state. In addition, the Department of Education shall
28 provide information to each school in this state on accessing and retrieving from the
29 Georgia Bureau of Investigation's website a list of the names and addresses of all
30 registered sexual offenders.

31 (2) On at least an annual basis, the Department of Early Care and Learning shall provide
32 current information to all child care programs regulated pursuant to Code Section
33 20-1A-10 on accessing and retrieving from the Georgia Bureau of Investigation's website
34 a list of the names and addresses of all registered sexual offenders and shall include, on
35 a continuing basis, such information with each application for licensure, commissioning,
36 or registration for early care and education programs.

1 (3) On at least an annual basis, the Department of Human Resources shall provide
2 current information to all day-care, group day-care, and family day-care programs
3 regulated pursuant to Code Section 49-5-12 on accessing and retrieving from the Georgia
4 Bureau of Investigation's website a list of the names and addresses of all registered
5 sexual offenders.

6 (l) Within ten days of the filing of a defendant's discharge and exoneration of guilt
7 pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of
8 discharge and exoneration to the Georgia Bureau of Investigation and any sheriff
9 maintaining records required under this Code section.

10 (m) Any individual who:

11 (1) Is required to register under this Code section and who fails to comply with the
12 requirements of this Code section;

13 (2) Provides false information; or

14 (3) Fails to respond directly to the sheriff within 48 hours of such individual's birthday
15 shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor
16 more than 30 years; provided, however, that upon the conviction of the second offense
17 under this subsection, the defendant shall be punished by imprisonment for life.

18 (n) The information collected pursuant to this Code section shall be treated as private data
19 except that:

20 (1) Such information may be disclosed to law enforcement agencies for law enforcement
21 purposes;

22 (2) Such information may be disclosed to government agencies conducting confidential
23 background checks; and

24 (3) The Georgia Bureau of Investigation or any sheriff maintaining records required
25 under this Code section shall, in addition to the requirements of this Code section to
26 inform the public of the presence of sexual offenders in each community, release such
27 other relevant information collected under this Code section that is necessary to protect
28 the public concerning sexual offenders required to register under this Code section,
29 except that the identity of a victim of an offense that requires registration under this Code
30 section shall not be released.

31 (o) The Board of Public Safety is authorized to promulgate rules and regulations necessary
32 for the Georgia Bureau of Investigation and the Georgia Crime Information Center to
33 implement and carry out the provisions of this Code section.

34 (p) Law enforcement agencies, employees of law enforcement agencies, and state officials
35 shall be immune from liability for good faith conduct under this article.

1 42-1-13.

2 (a) The Sexual Offender Registration Review Board shall be composed of three
3 professionals licensed under Title 43 and knowledgeable in the field of the behavior and
4 treatment of sexual offenders; at least one representative from a victims' rights advocacy
5 group or agency; and at least two representatives from law enforcement, each of whom is
6 either employed by a law enforcement agency as a certified peace officer under Title 35 or
7 retired from such employment. The members of the board shall be appointed by the
8 commissioner of human resources for terms of four years. On and after July 1, 2006,
9 successors to the members of the board shall be appointed by the Governor. Members of
10 the board shall take office on the first day of September immediately following the expired
11 term of that office and shall serve for a term of four years and until the appointment of their
12 respective successors. No member shall serve on the board more than two consecutive
13 terms. Vacancies occurring on the board, other than those caused by expiration of a term
14 of office, shall be filled in the same manner as the original appointment to the position
15 vacated for the remainder of the unexpired term and until a successor is appointed.
16 Members shall be entitled to an expense allowance and travel cost reimbursement the same
17 as members of certain other boards and commissions as provided in Code Section 45-7-21.

18 (b) The board shall be attached to the Department of Human Resources for administrative
19 purposes and, provided there is adequate funding, shall:

20 (1) Exercise its quasi-judicial, rule-making, or policy-making functions independently
21 of the department and without approval or control of the department;

22 (2) Prepare its budget, if any, and submit its budgetary requests, if any, through the
23 department; and

24 (3) Hire its own personnel if authorized by the Constitution of this state or by statute or
25 if the General Assembly provides or authorizes the expenditure of funds therefor.

26 (c) Members of the board shall be immune from liability for good faith conduct under this
27 article.

28 42-1-14.

29 (a) The board shall determine the likelihood that a sexual offender will engage in another
30 crime against a victim who is a minor or a dangerous sexual offense. The board shall make
31 such determination for any sexual offender convicted on or after July 1, 2006, of a criminal
32 act against a minor or a dangerous sexual offense and for any sexual offender incarcerated
33 on July 1, 2006, but convicted prior to July 1, 2006, of a criminal act against a minor. A
34 sexual offender shall be placed into Level I risk assessment classification, Level II risk
35 assessment classification, or sexually dangerous predator classification based upon the

1 board's assessment criteria and information obtained and reviewed by the board. The
2 sexual offender may provide the board with information including, but not limited to,
3 psychological evaluations, sexual history polygraph information, treatment history,
4 personal, social, educational, and work history, and may agree to submit to a psychosexual
5 evaluation or sexual history polygraph conducted by the board. If the sexual offender has
6 undergone treatment through the Department of Corrections, such treatment records shall
7 also be submitted to the board for evaluation. The prosecuting attorney shall provide the
8 board with any information available to assist the board in rendering an opinion, including,
9 but not limited to, criminal history and records related to previous criminal history. On and
10 after July 1, 2006, the clerk of court shall send a copy of the sexual offender's conviction
11 to the board and notify the board that a sexual offender's evaluation will need to be
12 performed. The board shall render its recommendation for risk assessment classification
13 within:

14 (1) Six months prior to the sexual offender's proposed release from confinement if the
15 offender is incarcerated; and

16 (2) Forty-five days of receipt of the required registration information if the sexual
17 offender has entered this state from another state and registered as a sexual offender.

18 The board shall send a copy of its risk assessment classification to the sexual offender and
19 sentencing court, if applicable.

20 (b) If the sexual offender received a sentence of imprisonment and was sentenced for a
21 dangerous sexual offense on or after July 1, 2006, or if the sexual offender is incarcerated
22 on July 1, 2006, for a crime against a victim who is a minor, after receiving a
23 recommendation from the board that he or she be classified as a sexually dangerous
24 predator, the sexual offender may request that the sentencing court set a date to conduct
25 a hearing affording the sexual offender the opportunity to present testimony or evidence
26 relevant to the recommended classification. After the hearing and within 60 days of
27 receiving the report, the court shall issue a ruling as to whether or not the sexual offender
28 shall be classified as a sexually dangerous predator. If the court determines the sexual
29 offender to be a sexually dangerous predator, such fact shall be communicated in writing
30 to the appropriate official, the Georgia Bureau of Investigation, and the sheriff of the
31 county where the sexual offender resides.

32 (c) Any sexual offender who changes residence from another state or territory of the
33 United States to this state and who is not designated as a sexually dangerous predator,
34 sexual predator, or a sexually violent predator shall have his or her required registration
35 information forwarded by the sheriff of his or her county of registration to the board for the
36 purpose of risk assessment classification. After receiving a recommendation from the

1 board that he or she be classified as a sexually dangerous predator, the sexual offender may,
2 within 30 days after the issuance of such classification, request a hearing before an
3 administrative law judge. Such hearing shall be conducted in accordance with Chapter 13
4 of Title 50, the 'Georgia Administrative Procedure Act.' The decision of the administrative
5 law judge shall constitute the final decision of the board subject to the right of judicial
6 review in accordance with Chapter 13 of Title 50. If the final determination is that the
7 sexual offender is classified as a sexually dangerous predator, such fact shall be
8 communicated in writing to the appropriate official, the Georgia Bureau of Investigation,
9 and the sheriff of the county where the sexual offender resides.

10 (d) Any individual who was classified as a sexually violent predator prior to July 1, 2006,
11 shall be classified as a sexually dangerous predator on and after July 1, 2006.

12 (e) Any sexually dangerous predator shall be required to wear an electronic monitoring
13 device that shall have, at a minimum, the capacity to locate and record the location of the
14 sexually dangerous predator by a link to a global positioning satellite system, have two-way
15 voice communication capability, have an alarm at no less than 95 decibels that can be
16 remotely activated, and is automatically activated and broadcasts the sexually dangerous
17 predator's location if the monitor is removed or tampered with by anyone other than a law
18 enforcement official designated to maintain and remove or replace the monitor. Such
19 monitor shall be worn by a sexually dangerous predator for the remainder of his or her
20 natural life. The sexually dangerous predator shall pay the cost of such monitor to the
21 Department of Corrections if the sexually dangerous predator is on probation; to the Board
22 of Pardons and Paroles if the sexually dangerous predator is on parole; and to the sheriff
23 after the sexually dangerous predator completes his or her term of probation and parole or
24 if the sexually dangerous predator has moved to this state from another state, territory, or
25 country. The monitor shall be placed upon the sexually dangerous predator prior to his or
26 her release from confinement. If the sexual offender is not in custody, within 48 hours of
27 the decision classifying the sexual offender as a sexually dangerous predator by the court
28 in accordance with subsection (b) of this Code section or a final decision pursuant to
29 subsection (c) of this Code section, whichever applies to the sexual offender's situation,
30 the sexually dangerous predator shall report to the sheriff of the county of his or her
31 residence for purposes of having the monitor placed on the sexually dangerous predator.

32 (f) In addition to the requirements of registration for all sexual offenders, a sexually
33 dangerous predator shall report to the sheriff of the county where such predator resides six
34 months following his or her birth month and update or verify his or her required
35 registration information.

42-1-15.

(a) No individual required to register pursuant to Code Section 42-1-12 shall reside within 1,000 feet of any child care facility, church, school, or area where minors congregate. Such distance shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the child care facility, church, school, or area where minors congregate at their closest points.

(b) No individual who is required to register under Code Section 42-1-12 shall be employed by any child care facility, school, or church or by any business or entity that is located within 1,000 feet of an area where minors congregate, a child care facility, a school, or a church.

(c) Any sexual offender who knowingly violates the provisions of this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years.

(d) Nothing in this Code section shall create, either directly or indirectly, any civil cause of action against or result in criminal prosecution of any person, firm, corporation, partnership, trust, or association other than an individual required to be registered under Code Section 42-1-12."

SECTION 2.

Said title is further amended by striking subsection (b) of Code Section 42-8-35, relating to terms and conditions of probation, and inserting in lieu thereof the following:

"(b) In determining the terms and conditions of probation for a probationer who has been convicted of a criminal offense against a victim who is a minor or dangerous sexual offense as ~~that phrase is~~ those terms are defined in ~~subparagraph (a)(4)(B)~~ of Code Section 42-1-12, the court may provide that the probationer shall be:

(1) Prohibited from entering or remaining present at a victim's school, place of employment, place of residence, or other specified place at times when a victim is present or from entering or remaining present in areas where minors congregate, child care facilities, churches, or schools as those terms are defined in ~~subsection (a)~~ of Code Section ~~42-1-13~~ 42-1-12;

(2) Required to wear a device capable of tracking the location of the probationer by means including electronic surveillance or global positioning systems. The ~~Unless the probationer is indigent, the~~ department shall assess and collect fees from the probationer for such monitoring at levels set by regulation by the department; and

(3) Prohibited from seeking election to a ~~Local Board of Education~~ local board of education."

SECTION 3.

(a) This Act shall become effective July 1, 2006.

(b) Any person required to register pursuant to the provisions of Code Section 42-1-12, relating to the state sexual offender registry, and any person required not to reside within areas where minors congregate, as prohibited by Code Section 42-1-13, shall not be relieved of the obligation to comply with the provisions of said Code sections by the repeal and reenactment of said Code sections.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.